

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Gass et al.
TITLE : METHOD FOR SENDING CALLING
COMMUNICATION TERMINAL
LOCATION DATA TO A CALL
CENTER
APPLICATION NO. : 10/589,027
FILED : August 10, 2006
CONFIRMATION NO. : 4216
EXAMINER : Phung Hoang Joseph Nguyen
ART UNIT : 2614
LAST OFFICE ACTION : March 20, 2009
ATTORNEY DOCKET NO. : LUTZ 2 00750
ALU No. 105433

PETITION FOR WITHDRAWAL OF PREMATURE FINAL REJECTION (MPEP

\$1002.02(c), MPEP \$706.07(c))

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant(s) respectfully petition(s) for removal of the finality of the Office Action dated March 20, 2009, and entry of the amendment after final rejection submitted concurrently herewith.

The amendments made to the claims in Amendment A, responsive to the Office Action dated October 8, 2008, were made to address the 112 rejection raised by the

Examiner in that Office Action. As stated by the Examiner at page 8 of the Final Office Action dated March 20, 2009, the claim amendments of Amendment A emphasize the formality of claim format, and thus did not introduce subject matter that would cause the Examiner to have to raise new grounds of rejection. Therefore, at least one claim was not amended in a manner that would necessitate a new ground of rejection in the reply to the Office Action dated October 31, 2007.

In the Office Action dated October 8, 2008, the Examiner rejected claims 1, 3, 7, 9-10, and 12-14 under §102(e) as being anticipated by McCalmont. Claim 1 was further rejected under 102(e) as being anticipated by Leung. Claims 2, 4-6, 8, and 11 were rejected under 103(a) as being unpatentable over McCalmont. In the present Office Action, the Examiner has introduced new grounds of rejection that were not necessitated by applicant's amendment to the claims. Specifically, claim 1 is now rejected only under 102(e) as being anticipated by McCalmont, and claims 2-15 are rejected under 103(a) as being unpatentable over McCalmont.

Thus, the Examiner has introduced new grounds of rejection for dependent claims 3, 7, 9, 10, and 12-14, which were not necessitated by applicant's amendment to the claims in the reply to the Office Action dated October 8, 2008. Since original claims 3, 7, 9, 10, and 12-14 were already searched by the examiner, and the new ground of rejection introduced by the Examiner was *not* necessitated by applicants' amendment of the claims as required by MPEP 706.07(a), the finality of the Office Action dated March 20, 2009 is premature.

CONCLUSION


Any payment required for the filing of this Petition is authorized to be charged to Deposit Account No. 06-0308.

Should the Petitions Attorney have any questions or wish to discuss this Petition, a telephone call to the undersigned would be welcomed.

Respectfully submitted,

Fay Sharpe LLP

5.15.09
Date



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CERTIFICATE OF MAILING OR TRANSMISSION	
I hereby certify that this correspondence (and any item referred to herein as being attached or enclosed) is (are) being	
<input type="checkbox"/> deposited with the United States Postal Service as First Class Mail, addressed to: Mail Stop None, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.	
<input checked="" type="checkbox"/> transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.	
Express Mail Label No.:	Signature: <u>Laurie A. Boylan</u>
Date: <u>May 15, 2009</u>	Name: Laurie A. Boylan

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